

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

COREY JACK PACEWICZ,	:	
Plaintiff	:	CIVIL ACTION NO. 3:19-314
v.	:	(JUDGE MANNION)
LUZERNE COUNTY CHILDREN & YOUTH SERVICES, <u>et al.</u>,	:	
Defendants	:	

ORDER

Pending before the court is the report of Magistrate Judge Susan E. Schwab which recommends that the plaintiff's complaint be dismissed pursuant to Fed.R.Civ.P. 41(b). (Doc. 24). No objections to the report have been filed.

By way of relevant background, the plaintiff filed the instant action, *pro se*, on February 25, 2019. (Doc. 1). After having been granted an extension of time to do so (Doc. 13), on August 12, 2019, the defendants filed a motion to dismiss the plaintiff's complaint (Doc. 13). When the plaintiff failed to respond to the defendants' motion to dismiss in a timely manner, Judge Schwab issued an order directing him to do so on or before September 12, 2019. (Doc. 12). September 12, 2019, came and went without any opposing brief filed by the plaintiff. As a result, by order dated September 24, 2019, Judge Schwab issued an order to show cause why the instant action should not be dismissed pursuant to Fed.R.Civ.P. 41(b) for the plaintiff's failure to

prosecute the action. (Doc. 23). Again, the plaintiff failed to respond. On October 18, 2019, Judge Schwab issued the instant report, in which she recommends that the plaintiff's complaint be dismissed pursuant to Fed.R.Civ.P. 41(b) finding that the Poulis¹ factors weigh in favor of such a disposition. (Doc. 24). As indicated, the plaintiff has failed to file any objections to Judge Schwab's report.

When no objections are filed to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

The court has reviewed the reasons presented by Judge Schwab in support of her recommendation and agrees that the Poulis factors weigh in favor of dismissing the plaintiff's complaint pursuant to Fed.R.Civ.P. 41(b). As

¹Poulis v. State Farm Fire and Cas. Co., 747 F.2d 863, 868 (3d Cir. 1984).

such, the undersigned finds no clear error on the face of the record and will adopt Judge Schwab's report in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report and recommendation of Judge Schwab, (**Doc. 24**), is **ADOPTED IN ITS ENTIRETY**.
- (2) The plaintiff's complaint is **DISMISSED** pursuant to Fed.R.Civ.P. 41(b).
- (3) The Clerk of Court is **DIRECTED TO CLOSE THIS CASE**.

s/Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: November 19, 2019

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